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Chair

Mr. Dan Ruimy

Standing Committee on Industry, Science and Technology

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● (1530)

[*English*]

The Chair (Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.)): Good afternoon, everybody.

Welcome to meeting number 127, where we're continuing our five-year review of the Copyright Act.

With us today, we have from the National Campus and Community Radio Association, all the way from my neck of the woods, Freya Zaltz, by video conference.

We have from the Canadian Association of Broadcasters, Nathalie Dorval, chair, board of directors; and Susan Wheeler, chair, copyright committee.

Finally, from Stingray Digital Media Group, we have Annie Francoeur, vice-president, legal and business affairs.

We were supposed to also have someone from Radio Markham York with us. However, challenges came up with the tornado that affected her ability to come here. Hopefully, we can maybe get her in at another time.

We're going to get started right into this after I introduce our newest member, Mr. David de Burgh Graham.

Ms. Zaltz, you have up to seven minutes.

Ms. Freya Zaltz (Regulatory Affairs Director, National Campus and Community Radio Association): As you heard, my name is Freya Zaltz. I'm the regulatory affairs director for the National Campus and Community Radio Association. I also represent two additional associations, l'Association des radiodiffuseurs communautaires du Québec and l'Alliance des radios communautaires du Canada. These associations work to ensure stability and support for non-profit campus and community radio stations, and the long-term growth and effectiveness of the sector. Going forward, I will refer to the sector and the stations as C and C for campus and community. Together, the associations represent about 90% of the Canadian C and C sector, or 165 radio stations.

I'd like to tell the committee a little about the sector and how its stations are affected by copyright tariffs. I'll also emphasize the continuing importance of paragraph 68.1(1)(b) of the Copyright Act, which provides C and C stations with certainty and protection from some tariff increases that could impact their financial viability.

C and C radio stations reflect the diversity of the communities they serve. They are community owned, operated, managed and controlled, and some or all of their programming is produced by community volunteers. Being tied to communities so directly means that C and C stations produce programming that is rich in local information and reflection. They also present a wide variety of community perspectives, especially under-represented voices and content.

C and C stations in Canada provide their communities with access to local programming in more than 65 languages, including a number of indigenous languages. They provide an array of locally produced programming that reflects the linguistic duality of Canada and meets the needs of both French and English linguistic minority communities. They provide important community services.

The Canadian music industry and the public derive great benefit from the support that C and C broadcasters provide to Canadian artists as a result of their mandate to provide diverse content and exposure for new artists. Many successful Canadian artists owe their start to C and C radio. Because these stations focus on achieving their mandate rather than on generating profit, they can afford to take the risk of playing works by unknown artists who otherwise lack radio exposure.

One of the sector's concerns is ensuring that paragraph 68.1(1)(b) of the Copyright Act is preserved when the act is amended. That paragraph limits to $100 per year the fee that non-commercial radio stations must pay to the copyright collective Re:Sound for the rights associated with communicating to the public by telecommunication performers' performances of music works or sound recordings embodying such performers' performances within Re:Sound's repertoire, in other words, neighbouring rights.

Keeping that tariff and all others low is very important to stations in the C and C sector. Because they are non-profit, they have no stable sources of operational funding, and are usually under severe financial constraints. Some stations have tiny budgets, as small as $5,000 per year, and no paid staff whatsoever. Many already struggle to pay their expenses, and any additional tariff obligations, not matter how small, make them more vulnerable to closure due to insolvency.

Also, applicable tariffs have been steadily increasing in number and cost, and the tariff addressed by paragraph 68.1(1)(b) is only one of presently five tariffs that C and C stations must pay annually. This increase is due in part to listeners' expectations that they'll be able to access C and C stations' content via multiple platforms, including over the Internet. The costs of providing these services over multiple platforms, including the associated copyright tariffs, make it increasingly difficult for C and C stations to remain solvent.

In that vein, existing exceptions for ephemeral and internal copies should be retained for non-commercial uses, since non-profit broadcasters do not benefit financially from the use of copyrighted material.

Also, participating in Copyright Board proceedings and effective negotiations with copyright collectives requires resources and legal expertise, and for financial reasons the C and C sector has limited capability in these respects.

● (1535)

It would, therefore, help the associations to simplify the board's procedures where possible. The board's 2013 Re:Sound tariff 8 decision suggests that it understands non-profit users' financial limitations perhaps better than the copyright collectives do, so moving to a private agreement model is not necessarily in the association's best interests.

The C and C sector understands that copyright tariffs are intended to compensate copyright holders for their use of the work. Since C and C stations don't derive any profit from such use, and since, instead, their goal is to increase the exposure and further the careers of Canadian and emerging artists, they believe there's value to copyright holders in keeping tariffs low for the C and C sector.

The associations, therefore, appreciate the protection that paragraph 68.1(1)(b) provides by limiting the cost and providing ongoing certainty for one of the many tariffs that C and C stations must pay. They ask that this committee keep these issues in mind when contemplating possible changes to the act in order to ensure that Canadians continue to reap the benefits of a strong C and C broadcasting sector.

In conclusion, I appreciate the opportunity to speak today, and I would be pleased to answer any questions.

The Chair: Thank you very much.

We're going to move to the Canadian Association of Broadcasters.

Ms. Dorval, you have the floor. You have up to seven minutes.

● (1540)

[*Translation*]

Ms. Nathalie Dorval (Chair, Board of Directors, Canadian Association of Broadcasters): Ladies and gentlemen, on behalf of the Canadian Association of Broadcasters, I want to thank you for the opportunity to appear before you today to discuss issues relating to copyright, which are integral to our businesses.

[*English*]

Local broadcasting in our country provides entertainment, but it is also a critical source of news and information to Canadians from large urban centres with diverse ethnic populations to the most rural, remote and first nations communities.

From emergency alerting to local news in a variety of languages, radio connects communities. In fact, radio is one of the sole sources of local news and culture in rural and remote communities across Canada, many of which have already felt the sting of local newspaper and television closures.

[*Translation*]

Radio also plays a key role in maintaining the health of the Canadian music eco-system. Not only is private radio the number one source for discovering Canadian music it is also the number one source of funding for the development, promotion and the export of Canadian musical talent.

Last year alone, private radio contributed $47 million in Canadian Content Development funding, the majority of which was directed to the country's four largest music funding agencies: FACTOR, MusicAction, Radio Starmaker Fund and Fonds RadioStar. Those agencies provide critical support to Canadian music labels and artists to create, promote and export their music internationally and across our vast country.

We are proud of the role we have played in helping to create the vibrant and successful community of internationally successful music artists our country enjoys today.

Over and above this important role, radio also invests in broadcast talent at the local level, creating employment opportunities, enhancing creativity and bringing local content to people everywhere.

Finally, let's not forget that local radio serves as one of the key channels that local businesses use to market their products and services.

[*English*]

We believe the Copyright Act, in its current form, strikes the very delicate balance of ensuring that artists are renumerated for their work while also ensuring that local radio has a reasonable and predictable copyright regime that reflects its continued investment in local communities and music artists. Indeed, section 68.1 of the act provides important support for local radio stations by mandating that radio will pay neighbouring rights of $100 on the first $1.25 million in revenue, and then paying a higher rate through a percentage of advertising revenue which is set by the Copyright Board of Canada. While the rate structure for neighbouring rights payment is subject to this special measure, as Parliament intended in 1998, the music industry still collects over $91 million in copyright payments from private radio each year.

If Parliament agrees to amend the Copyright Act by removing these exemptions, the primary beneficiaries will be the multinational record labels that are proposing it. Under the existing neighbouring rights regime, payments are allocated fifty-fifty between performers and record labels. Where the money flows from there is unclear, and worth further discussion before any amendments to the act should be contemplated.

What we do know from publicly available information is that Re: Sound, the copyright collective responsible for distributing neighbouring rights payments, takes 14% off the the top in administrative fees before anyone gets paid. Of the remaining amounts, the music industry has carefully concealed where that money might go. For example, in the English market, based on radio repertoire, we estimate that of the performers' share, after administration costs are deducted, 15% goes to international performers and 28% goes to Canadian performers. Of the labels' portion, no less than 41% goes to the multinational record labels, with Canadian labels receiving only about 2%. What this tells you is that multinational record labels will be the primary beneficiary of the proposed change to section 68.1, at the cost of local Canadian businesses.

The American labels are also asking you to change the definition of sound recording in the act to extract additional royalty payments from television broadcasters. In fact, the labels are attempting to squeeze out an additional payment for the use of music from broadcasters, distributors and digital platforms in a television program that has already been paid for up front by the producers of that program. Quite simply, they are asking us to pay twice for the same product, otherwise known as double-dipping.

● (1545)

[*Translation*]

The current definition of "sound recording" is carefully worded to reflect the contractual realities of the audiovisual production sector. This was confirmed by the Supreme Court of Canada in a 2012 decision. Any consideration of adding new costs on conventional television broadcasters, or on the digital sector, should be rejected as it would diminish Canadian broadcasters' ability to invest in Canadian productions by shifting more than $50 million into the hands of foreign owned corporations.

[*English*]

Honourable members, the Canadian Association of Broadcasters respectfully urges the committee to reject any proposed amendment to the Copyright Act that would harm the Canadian broadcasting sector and jeopardize the important service that local broadcasters provide to Canadians.

I want to reiterate that the current legislation strikes the right balance between rights holders and local broadcasters, and that the proposal being advanced by the music industry risks coming at the expense of local programming and the valued and essential services that we provide to Canadians.

[*Translation*]

The Chair: Thank you very much.

[*English*]

We're going to move to Stingray Digital Group.

[*Translation*]

Ms. Francoeur, the floor is yours for seven minutes.

Ms. Annie Francoeur (Vice-President, Legal and Business Affairs, Stingray Digital Group Inc.): Good afternoon, ladies and gentlemen.

On behalf of Stingray Digital Group Inc., I would like to begin by thanking you for the invitation to participate in the discussions on the review of the Copyright Act, particularly with respect to music, the industry in which Stingray operates.

Founded in 2017, Stingray is a Canadian company headquartered in Montreal and currently employs 340 people in Canada. We distribute our services not only in Canada, but also abroad to approximately 400 million subscribers or households in 156 countries. We also serve 12,000 commercial clients in 78,000 locations.

For fiscal year 2018, approximately 47% of Stingray's revenue comes from Canada. The more successful Stingray is abroad, the more Canadian artists benefit from the visibility abroad.

Stingray's portfolio of services in Canada includes an audio music service called Stingray Music, which includes 2,000 channels dedicated to approximately 100 musical genres. Our services also include videos on demand, music videos, karaoke, concerts and a dozen linear audiovisual channels such as Stingray Classica, Stingray Festival 4K, Stingray Ambiance, and so on.

Our services are available on multiple digital platforms and through devices such as cable or satellite television, the Internet, mobile apps, video game consoles, in-flight or on-train entertainment systems, connected cars, WiFi systems such as Sonos, and so on.

More than 100 music experts from around the world are responsible for programming Stingray's various services and channels. This is one of the differences between Stingray and a number of other music service providers, which normally use algorithms to select the content they offer. Stingray's channel programming is also adapted to local markets and demographics.

Out of necessity, Stingray is also a technology company. Managing a large portfolio of digital assets and delivering the content across multiple platforms and markets requires Stingray to remain at the forefront of technology. The Stingray Group therefore invests several million dollars a year in research and development in order to remain competitive and retain its clients.

● (1550)

[*English*]

Stingray is committed to encouraging Canadian talent and artists, and it participates actively in the development and promotion of Canadian content. During the last broadcast year, Stingray spent approximately $379,000 in Canadian content development initiatives, which include payments to Factor, Musicaction and the Community Radio Fund of Canada, but also awards at music events and festivals, artists' performance fees, workshops, educational sessions, etc.

In addition to such CCD initiatives, after Stingray's IPO in 2015, the CRTC approved the change in ownership and effective control of Stingray, but it required that Stingray pay tangible benefits corresponding to $5.5 million over a period of seven years. In addition to these regulatory obligations, Stingray also contributes voluntarily in many other ways to promote and develop Canadian artists.

Very recently, Stingray partnered with ADISQ to create a new music video channel made available through television operators in Canada, named PalmarèsADISQ by Stingray. Pursuant to Stingray's desire to invest in young talent, a portion of the profits generated by the channel will be invested in local music video production through existing third party funds like RadioStar.

Through this initiative, Stingray will finance the production of music videos broadcast on its channels, but it will also help develop the careers of up-and-coming Canadian and Quebec directors and artists. Each year, Stingray also gives certain amounts to events or partners involved with the development and promotion of Canadian talent. For example, Stingray has been a regular sponsor of panels at *les Rencontres de l'ADISQ* and other similar events.

Stingray also produces the PausePlay series, which consists of exclusive interviews and intimate performances of popular and emerging artists recorded live to promote their new albums or tours.

Such recordings are made available by Stingray on social media platforms and channels to offer important exposure for those artists. We also have a Stingray blog where we have editorial coverage on album reviews, concert reviews, etc.

With respect to the review of the Copyright Act, we respectfully submit that the Copyright Act should remain as is at this time. We do not believe that any amendments are necessary. We believe that the current Copyright Act establishes the right balance between the rights holders and users such as Stingray.

Thank you.

The Chair: Thank you very much.

We're going to move right into questioning.

Mr. Longfield, you have seven minutes.

Mr. Lloyd Longfield (Guelph, Lib.): Thanks, everybody, for your presentations today.

Thanks to the clerk for getting us a range of presenters covering different media styles and different sizes and types of businesses.

I want to try to get an idea first of all in terms of the National Campus and Community Radio Association. I've participated on the the University of Guelph station CFRU, on *Open Sources*, a local political commentary that's been going for about 15 years now. I'm just about to go on *Zombie Jamboree*. They've asked me to bring a Canadian playlist with me and discuss Canadian music. There's a lot of volunteer activity.

You mentioned in your presentation maintaining paragraph 68.1 (1)(b). Was there a life before that? Was there a time when local campus radio stations weren't protected in a way that's being done right now through the exemptions?

Ms. Freya Zaltz: I'm not familiar with the history of the act in detail, but my understanding is that neighbouring rights is a relatively new concept in Canada and that exemption was introduced at the same time as the neighbouring rights regime. I may be incorrect about that, but that's my basic understanding.

I don't think there was a neighbouring rights tariff prior to the introduction of that portion of the act. Certainly, campus and community radio stations were required to pay other tariffs prior to that, for example, to SOCAN. I don't think there was a tariff for neighbouring rights earlier. My understanding is that it was introduced in the late 1980s or early 1990s.

● (1555)

Mr. Lloyd Longfield: Thank you. The purpose of the question was to see if there was something to fall back to, that we had in place before and that might have been more successful than this. I think distinguishing the not-for-profit from the for-profit operations is something that is really worth consideration as we go forward, so thanks for putting that on the table.

I want to go to Ms. Dorval from the Canadian Association of Broadcasters.

I've spoken with local musicians in Guelph who have talked about the technology that's used to determine how songs are played and reimbursed and how it's really a sampling that's done versus having the technology taking the actual digital playlists and reimbursing against digital playlists.

Is your association either aware of or looking into a more accurate way of paying artists when their songs are being played?

Ms. Nathalie Dorval: My understanding is that more and more we are required to provide the list of artists that are played and that it is done in accordance with the songs that have actually been played, as opposed to samples.

Mr. Lloyd Longfield: It sounds to me as if the technology is there and we aren't using it. Why aren't we?

Ms. Nathalie Dorval: We are using it.

Mr. Lloyd Longfield: That's not what I heard.

Ms. Susan Wheeler (Chair, Copyright Committee, Canadian Association of Broadcasters): We remit, as part of our remittances to the various collectives, the song list. It's captured through software that we use at the broadcast level. How it's then reallocated amongst the rights holders within the collective is not something we have any view into. That's something the collectives themselves would have to answer.

Mr. Lloyd Longfield: There's possibly some transparency there at some level that we're not reaching, and that we could consider.

We've heard really the opposite testimony to what you've provided today, that the major beneficiaries of the current exemptions are the broadcasters that have multiple locations, and that instead of protecting small radio stations, as it was initially intended, we're now giving protection to large stations that have multiple locations across Canada.

Have you heard that argument? Is there something I'm not understanding there?

Ms. Nathalie Dorval: We've certainly heard this and we find it very interesting.

First of all, I think you must know that many of the radio stations that are under the CAB umbrella are small stations. Almost 60% of these stations are small stations.

As for the stations that are owned by bigger ownership groups, they still remain small stations, but they obviously benefit from being part of a larger constituency. What happens there is that when we talk before committees like this one, radio is seen to have a sole operation, which is the great support it gives to artists and the cultural sector, but when you look at a broader range, where radio really does very well, you see that it's one of the last media outlets to provide reliable and professional news and information to Canadians wherever they are.

Many newspapers have closed. OTA stations have closed. What happens is that larger groups that have larger stations subsidize the smaller stations of the group for them to be able to provide those broader services to Canadians, in addition to the great support for artists and the cultural sector.

Mr. Lloyd Longfield: The struggle being that artists are having a declining revenue, of course, and stations are having an increasing revenue, and we're trying to square that situation.

Ms. Susan Wheeler: Just to clarify, in terms of increasing revenues, radio has experienced four years of consecutive revenue declines. I think that may be also a miscommunication in terms of our—

Mr. Lloyd Longfield: If there's a graph you could provide the clerk so that we can include it in our study, that would be very helpful.

Ms. Susan Wheeler: It would be my pleasure.

Mr. Lloyd Longfield: Very quickly, because I only have about 30 seconds left for Madam Francoeur, on the cost of streaming and how much artists get for streaming versus how much they get for radio broadcasting, do you have a comparison of that?

Ms. Annie Francoeur: We do not, because all we know is how much we pay in royalties to collective societies or to the rights holders we have agreements with, but after that, in terms of how they allocate it to their members, we have no visibility on that.

● (1600)

Mr. Lloyd Longfield: Okay. It seems like there's a possible inequity there if digital radio stations are paying a certain amount and digital streaming services are paying substantially less.

The Chair: Thank you very much.

We're going to move to Mr. Lloyd for seven minutes.

Mr. Dane Lloyd (Sturgeon River—Parkland, CPC): Thanks for coming today, and my apologies for being late.

I appreciated your testimony today.

My first question is going to be for either you, Madam Dorval, or Ms. Wheeler, regarding costs within the industry over the past 20 years. Just in looking at inflation of 2%, costs go up. On the 1997 decision to have $100 for the first $1.5 million, would you say that legislating a fixed cost like that and not addressing it for over 20 years now may be something that could be looked at? Would there be a rate you could look at that you could say would be reasonable as a cost?

Ms. Nathalie Dorval: If I may offer a different perspective on this very good question, even if we were changing this amount, the end result is that very little is going to make it to the Canadian artists. What you've heard is from the U.S. multinational labels that are coming before you. They seem to be talking on behalf of artists, but really, in terms of what they're doing—I think you've been provided the graph—it's a money grab. Most of this money is going out of the country to international labels, and very little is remaining in the country for Canadian artists.

Mr. Dane Lloyd: Why is that, though?

Ms. Nathalie Dorval: It's the way they distribute this money going forward. There is a fifty-fifty split between the record labels and the performers. On top of that, when they start, they deduct about 14% for admin fees. In the graph we've provided, you see that international performers get 15% of that, multinational labels get 41%, Canadian labels get 2%, and Canadian performers end up with 28%. Most of this is just leaving the country, while it's weakening smaller radio broadcasters and the broadcasting industry, which is providing other key services to Canadians across the country.

Mr. Dane Lloyd: That leads me into my next line of questioning. Some of our clerks have provided us with some excellent leads.

To start with, in regard to sound recordings and the exclusion of sound recordings from royalties, it seems that 44 countries include sound recordings in the royalties structure. Some of those countries are not outlier countries. They include the United Kingdom, France and Germany. The pattern I saw is that these countries aren't neighbours of the United States. Could you comment on how Canada's proximity to the United States maybe makes it necessary for us to have a unique system?

Ms. Nathalie Dorval: You're talking about the definitions of sound recording and television programming. We need to be very prudent when looking at this.

We are in a very complex copyright regime under the Canadian act. A great balance has been achieved. It's not a simple exercise. When you look at the regime in place, sound recordings in Canada are being cleared at the source. The producer goes to the artist, the songwriters and the label, and they clear that music up front. That's where we have a different regime; it's not being paid again when it's broadcast.

That's why we're saying if we were to keep maintaining this clearance at the source, and then pay back when we broadcast, we're going to be paying twice for the same input.

Mr. Dane Lloyd: Yes, although countries such as France, the United Kingdom and Germany have this double-dipping, as you say. Rather, maybe they don't have the double-dipping, but they don't exclude sound recording. Can you give me a comparison of what it's like for somebody like your stakeholders in Germany? How has that impacted their industries?

Ms. Nathalie Dorval: Maybe we can go deeper to provide you additional information, but I am not familiar with the German or French regimes, so I wouldn't be able to answer that.

Mr. Dane Lloyd: Delving deeper into my last question, is it our proximity to the United States, which is such a cultural behemoth, that requires us to have a more complex system than the European model?

Ms. Susan Wheeler: I would just add that we already have a unique system here in Canada compared to the U.S., in the sense that radio broadcasters in the U.S. don't pay this tariff. Canadian broadcasters are actually paying multinational record companies for rights that aren't even recognized in their country of origin.

● (1605)

Mr. Dane Lloyd: How can we better compensate Canadian artists instead of these multinational artists, if this is an issue? What would be your recommendation for how we deal with that?

Ms. Nathalie Dorval: The appearance of Bryan Adams before you last week was really telling in terms of the different perspective you can get from an artist who's sitting before you and really speaks for himself. It's different from what you may hear from the record labels.

Maybe looking additionally at how this pie is already being distributed with the money that's already flowing in the system could be part of the answer.

Mr. Dane Lloyd: My next question will be for our community radio witnesses here, who have joined us over video feed.

You noted in your submission that you'd like the Copyright Board to be a simplified regime. It's easy to say you want it to be simpler, but in what ways should we recommend that it be simplified to help you out as an organization?

Ms. Freya Zaltz: I would prefer to answer that question afterwards in writing, if I may.

Mr. Dane Lloyd: Please follow up in writing.

Ms. Freya Zaltz: The recommendations that the campus and community radio sector would make are mirrored in the recommendations that were contained in a report by the committee that was studying the Copyright Board in the last couple of years. There were some issues raised by all of the different stakeholders in that proceeding.

The campus and community radio sector didn't participate in that initial review process because we felt that all the concerns we could have raised had already been very ably raised by other groups. However, they were concerns with respect to timelines, how long the Copyright Board takes to initiate and conclude proceedings and to issue decisions, and other procedural matters. The procedures of the Copyright Board are not easily accessible by someone who doesn't have specialized legal training. It's difficult to understand the steps, follow what's going on and contribute what's required. Certainly it could be much more transparent and user-friendly in terms of how it operates.

The Chair: Thank you very much.

We're going to move to Mr. Masse.

You have seven minutes.

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair. I'll continue with Ms. Zaltz.

I represent Windsor, Ontario, where the university campus and others have made significant investments in their broadcasting. What is generally happening with campuses and community broadcasters right now? Are we the exception, or has there been a bit of a renewal and continued interest and expression to develop it further than before?

Ms. Freya Zaltz: Community radio is growing at a much faster rate than any other radio sector. The number of new licences issued to community radio stations is significant, particularly in recent years.

The issue is that there is no stable source of operational funding. There are grants available. Stations engage in fundraising initiatives. Some in larger communities are very successful. In the smaller communities, they have a harder time raising enough funds to operate a station. When they're associated with a university, they have the added support of infrastructure, premises, all sorts of utilities and whatnot that community stations have to pay for out-of-pocket.

I would say there is an increasing interest across the country in developing community radio stations, but we're also starting to see some close at a rate faster than we've ever seen them close before. All those that have closed have closed because they are unable to meet their expenses. They can't raise enough revenue. In some cases, because they can't afford to hire staff, their volunteers burn out and just don't have enough energy to continue operating the station.

The requirements that stations have to meet in terms of their CRTC licences do require a lot of ongoing supervision. There are significant amounts of paperwork, being cognizant of what's being played on air and calculating percentages. In some cases, this is very difficult for volunteer-only stations to do on a long-term, ongoing basis.

While we're seeing a definite increase in the interest in community radio across the country and in the number of groups that are applying for licences, we're also seeing more struggles to continue operating, particularly by the smaller stations.

● (1610)

Mr. Brian Masse: I know there's a big challenge with capital. That seems to be for improvements for the physical components necessary for upgrading and so forth. The big gap seems to be that it's only grant-based. The nominal revenues coming in keep operations going, but getting capital improvements is very difficult. Interest can grow but capital improvements are quite expensive.

Ms. Freya Zaltz: That's true. Also, the funding that is available is usually project-based. It doesn't cover operating expenses at all except to the extent that they're associated temporarily with the completion of a project. Also, the infrastructure capital investments.... For example, as one of the presenters mentioned, the Community Radio Fund of Canada does provide project grants to stations, but it's not available for capital expenditures. If they need a new antenna, or a transmitter or studio equipment, they have to fundraise separately to pay for that.

Mr. Brian Masse: Thank you.

I'm going to move to our broadcasters. With regards to the content you're providing, you've noted the difference in terms of international markets and compensation. How would you compare the local news content, weather, sports and other things in your programming versus that of competitors, in terms of empirical data that you already have?

Is there a net benefit to those elements with regards to radio broadcasting differential? You've noticed a difference in terms of the payments going to the markets, but are you also providing an increased capacity of local news and other types of content?

Ms. Susan Wheeler: We don't have any statistics to provide you at this time, but we can provide you with an analysis of our programming expenses.

I should note that overall, around 78% of radio's revenue goes to expenses. That would include programming production, technical, sales promotion and general admin. That's a very large portion of our revenues going to just day-to-day operations to keep the stations on the air and to offer the programming that you've referenced, including news and information programming.

Mr. Brian Masse: I would be interested in following up there. Quite obviously there has been interest, not only in a community like mine that's on the border, in terms of ensuring Canadian content, but there's a public interest clause for that as well. I'm interested in the comparables, especially when you're talking about some of the expenses that are happening.

You mentioned, as well, that your American competitors do not have to pay the same fees. In a border community like mine, where we actually have Canadian content penetrating American markets, maybe you can tell me the disadvantage or advantage.

I'm curious. You've noted that there is a difference in terms of the encumbrances, but the airwaves compete on both sides of the Detroit River, and the regions are very lucrative markets, and very challenging markets too.

Ms. Susan Wheeler: Absolutely. There would be a clear disparity there, in terms of the Detroit radio stations broadcasting into Windsor. They would not be paying neighbouring rights or performance rights to the artists for the music they play on the radio. Canadian broadcasters do pay that to artists who come from countries of origin that recognize that right, so non-U.S. performers.

● (1615)

Mr. Brian Masse: How does that relate to advertising revenue, and attracting advertisers and revenue coming into the station?

Is there a correlation there as well?

Ms. Susan Wheeler: Certainly I think that has been an ongoing challenge with border stations. That isn't exclusive to copyright; it's a matter of having a different regulatory regime in place in the Canadian market than you have in the U.S. market. There are certain operational costs associated with that which won't have parity across the border.

The Chair: Thank you very much.

We're going to move to Mr. Graham. You have seven minutes.

Mr. David de Burgh Graham (Laurentides—Labelle, Lib.): Thank you.

[Translation]

I will start with Ms. Dorval, and I will continue along the same lines as Mr. Masse's questions.

You say that the United States does not pay fees, that there is no such system. How is copyright managed in the United States for radio stations?

Ms. Nathalie Dorval: They do not pay for sound recordings, because they are related rights. This does not mean that they do not pay any copyright fees. This is the comparative measure we have used for this tariff, knowing that they have asked you to repeal the exemption provided for in section 68.1 of the act to increase those payments.

On the broader issue of the remuneration of copyright in the United States, I am not in a position to answer.

[English]

Mr. David de Burgh Graham: What's the relationship between Ms. Zaltz and Ms. Dorval and these organizations? Is it close, between campus and community and commercial radio, or is there a lot of tension between the two sides?

Could either of you answer that?

Ms. Nathalie Dorval: To my knowledge, there is no tension between the two sides, even if we look at the francophone market, where Cogeco radio is helping the community station in Montreal.

I would say in the French market, I have not experienced or seen any tension there.

Ms. Susan Wheeler: It would be the same in the English market.

We should note, too, that as part of our regulatory requirements, we direct a portion of our revenues to a C and C radio association.

Mr. David de Burgh Graham: Mrs. Zaltz, do you have any comments?

Ms. Freya Zaltz: Could I ask you to clarify?

Is there a specific aspect that you're referring to in terms of tension?

Mr. David de Burgh Graham: In terms of what you're doing here, I'm wondering if C and C radio and the commercial radio stations agree with each other, or if you find disagreements between your positions.

Ms. Freya Zaltz: Thank you. As far as I can tell, our positions are complementary, as they often are on copyright tariff issues. I don't see any difference of opinion here.

Mr. David de Burgh Graham: This applies to all of you.

When you play music, how do you know which of the five different tariff systems you have to pay into, or maybe you're playing something that doesn't even apply to this, and how do you know?

Is there some way of very quickly telling which regime a piece of music is under?

Ms. Nathalie Dorval: We pay the five tariffs, and then it's redistributed by the collective that oversees these tariffs. However, we pay the five tariffs all the time.

Mr. David de Burgh Graham: You can play any music you want in confidence that it will be covered by one of those tariffs.

Ms. Nathalie Dorval: Yes. It's not one or the other tariff; we pay the five of them.

Mr. David de Burgh Graham: Okay.

What are they?

Ms. Susan Wheeler: We pay SOCAN, Re:Sound, CONNECT, Artisti and SODRAC.

Ms. Nathalie Dorval: This is for a total of $91 million for private radio stations per year.

Mr. David de Burgh Graham: With regard to the $100 that goes up to $1.25 million of revenue, if a company owns 20 different radio stations, and each one has its own call sign and is, effectively, a different station, is it revenue for the full company, or is each one of those radio stations administered separately for the $100?

Ms. Susan Wheeler: It's on an individual market basis.

Mr. David de Burgh Graham: So, if a whole bunch of radio stations are each under the thresholds for the $100, then they don't have to pay a whole lot.

Ms. Susan Wheeler: With regard to the particular Re:Sound tariff, they wouldn't. If their revenues are under $1.25 million, they'd only pay $100.

Mr. David de Burgh Graham: Okay.

With the rise of Internet radio, what are your ideas of how we address that? Anybody can set up a streaming service on their computer at home and they have an Internet radio station. They, obviously, don't pay into collectives. Is that something that has to be regulated, or are you saying that we should let that be as part of the organic Internet sphere?

● (1620)

Ms. Susan Wheeler: I'll defer to my colleague from Stingray, but my understanding is that Internet radio broadcasters do pay copyright. They would be required to pay copyright.

Mr. David de Burgh Graham: How enforceable is that?

Ms. Annie Francoeur: I'm not sure I understand. Are we talking about services that would be illegal and not pay the royalty tariffs?

[*Translation*]

Mr. David de Burgh Graham: Anyone can launch an Internet radio station. I can do it on my iPad in 30 seconds.

Ms. Annie Francoeur: There would be a number of problems from the outset. Where did you get the content? Is it duly authorized? Are you paying the applicable fees? There are many things to consider before launching a music service.

Mr. David de Burgh Graham: Okay.

Ms. Annie Francoeur: I was asking you the question to know whether we are talking about a service that's illegal or a service that does the right thing.

Mr. David de Burgh Graham: Are there many illegal services, in your opinion?

Ms. Annie Francoeur: I would not be able to tell you. I know that there are many people who use music illegally, from different points of view. Our group offers karaoke services, for example.

[*English*]

There are so many karaoke companies that are not fully licensed or duly licensed, so we know for a fact that people are not using only content that is licensed. In terms of music streaming services, specifically, I wouldn't know.

Mr. David de Burgh Graham: Fair enough.

Have you taken part in the Copyright Board reform consultations, and do you have any comments on the Copyright Board itself and how it works?

Ms. Nathalie Dorval: Obviously, there are things that can always be improved. As our colleague was saying, the length of time that the decision takes before it gets out and the retroactive portion that is applied on these tariffs that are usually always increasing is definitely an issue with regard to predictability of payment for the industry. That would certainly be something that we would look for an improvement on.

Ms. Annie Francoeur: In terms of Stingray, we've been only very recently involved with the Copyright Board proceeding. So far it's going well, but our understanding is that the government is also reviewing and might allocate additional resources to the Copyright Board, which will, obviously, help the efficiency there.

Mr. David de Burgh Graham: Thank you.

The Chair: We're going to move to Mr. Albas.

You have five minutes, please.

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): I'd like to thank all of our witnesses for taking the time to lend us their expertise here today.

I'd like to start with Ms. Dorval.

Ms. Dorval, you mentioned that many radio stations offer a lot of local content, particularly news, and I just want to reiterate how important that is in many parts of my riding. However, I will tell you that many newspaper editors tell me that they swear that they actually hear the pages of their newspapers turning, oftentimes, in some of those reports. I think that's just an old joke.

I would like to ask a couple of questions along the same lines as MP Lloyd.

The exemption, when it comes to royalties, has existed pretty much as it was first created in 1997. I know that there have been some witnesses who have said that it was meant to be temporary. I understand that your industry has said, "no, this was meant to be permanent", but even in looking at it when it was put in place in 1997, I don't believe that there's any kind of inflationary clause that goes along with it. At the very least, to get to a proper parity today with purchasing power, it would be about $148.20—that's probably an imprecise calculation. At the very least, would you not agree that there should be an elevation so that this amount is honoured in purchasing power of 1997 with today?

Ms. Nathalie Dorval: I fully understand. Your point doesn't seem unreasonable, but again I would add that this is going to do very little to help the Canadian artists in our country because 60% of that money is going to flow out of the country.

Mr. Dan Albas: How can you argue that paying in 1997 dollars, you would have been able to purchase more with that? I think that's a rather inane comment, madam. It should be that if something applies.... We do this with old age security and with many government programs to ensure that they are keeping up with it. Would you not agree that this, at the very least, would be fair and consistent with the act?

Ms. Nathalie Dorval: Yes, I guess that's why I'm saying that I don't think it's unreasonable. I think it's reasonable, but what I'm saying is that even if you do that, and it's a reasonable increase, very little of the result of that increase will end up in the end with the Canadian artist.

Mr. Dan Albas: I recognize that point, but at the same time, really, $100, whether it be then or now, isn't a lot of money. Again, the idea is that, bit by bit, that loosens its ability to pay for something in today's dollars.

● (1625)

Ms. Nathalie Dorval: Absolutely.

Mr. Dan Albas: I would hope that we would find some agreement along those lines.

That being said, I'd like to ask the same question to the National Campus and Community Radio Association. Would that be an issue for your association: to have that at least brought up to a proper level of today?

Ms. Freya Zaltz: It's a difficult position to be in because the campus and community radio sector strongly supports Canadian artists, particularly new and emerging artists, so we don't want to be in a position of taking money away from them. However, at the same time, non-profit stations just don't have any more money. Even if it were eminently fair to provide an increase in payment to those artists, the stations don't have the money to give to them. We're in a difficult position, then, because we have to kind of argue both things at the same time: that the artists should be properly compensated and that we can't afford to pay any more.

Mr. Dan Albas: Well, if you can't find some agreement on literally paying dollar for dollar what it was meant to be in 1997, I find that the two positions are pretty far here, Mr. Chair.

I'll go back to the National Campus and Community Radio Association.

In your brief, you referred to a series of tariffs that small community and campus stations have to pay annually. Can you list the tariffs, their purposes and their amounts? Roughly what part of the annual budget for most of your members do you believe that would represent?

Ms. Freya Zaltz: I would have to provide more detail to you in writing on that, given the number of stations we're talking about.

I can tell you what the five tariffs are, though. There is the performing rights tariff to SOCAN, which is at a rate of 1.9% of gross operating costs.

Then there are two tariffs that are paid to Re:Sound. One is for the one that we're talking about under paragraph 68.1(1)(b). Another is a streaming and webcasting tariff that's paid to Re:Sound. I think it would be more effective for me to provide the information about rates in writing.

The remaining two are to CMRRA and SODRAC. Those tariffs are currently the subject of a proceeding under the Copyright Board, so the rates are not resolved going forward. One is for mechanical rights, so for reproduction right of copyrighted material that stations use internally on hard drives, CDs and whatnot. Then the other is for online services. At this point, actually, the campus and community sector does not have a very clear idea of what sorts of rates we're even talking about for the online services because we have only begun to negotiate that.

The Chair: If you would like to submit the accurate numbers and information to the clerk, that would be great. Thank you very much.

We're going to move to Mr. Sheehan.

You have five minutes.

Mr. Terry Sheehan (Sault Ste. Marie, Lib.): I'd like to echo everyone's comments that it's been great testimony for us to think about. We've heard some different testimony over time. One comment is from artists saying they are making less money than they ever have.

Here today we've heard some testimony that we should just leave things as is. Your suggestion is that if we change things, the international labels will make more money. How so? Explain in a little more detail how that works.

Listening to your testimony, I think Canadian radio does some intangible things. I wonder if you have any information about the exposure that Canadian artists receive through radio. Is there a value to it, whether they're up-and-coming or if they're from a certain genre, that sort of exposure and development?

We heard testimony about the radio starmaker fund, when someone is purchased and whatnot. In particular, do you have any statistics about how our Canadian artists might receive some sort of tangible financial benefit by being exposed on that?

Those are some of the things in my head, if someone would start with that.

● (1630)

Ms. Nathalie Dorval: I'll try to take them one at a time. For the first one, distribution of that money with the record labels, we had to do an analysis of the songs that we play on the radio in our industry to try to understand how that money is being distributed within Re:Sound organizations. It's difficult for us to give you more than the breakdown that we've provided to you. We've been able to sort out through our own analysis of what's being played on the radio. It would be great for Re:Sound to come and explain how they distribute that money to the different components of their constituents.

In terms of exposure, because of the public policy of the CRTC, Canadian radio plays 35% of Canadian music in the English market, which is a direct exposure to Canadian artists. In the francophone market it's even higher. We have to play 65% of French vocal music, but 100% of that is not necessarily Canadian because we're allowed to play songs from France or Belgium. Most of it, close to 60%, is Canadian music. That gives you a sense of the exposure that Canadian artists get on radio.

Ms. Susan Wheeler: In addition to the airplay, we often bring artists into our studios and allow them to talk about their new albums or their new projects. We also have spotlight initiatives when we invite our listeners and members of the community to come and benefit from a showcase of Canadian artists and maybe gain exposure to artists that they are not otherwise familiar with.

We see it as a symbiotic relationship, where we provide promotion and exposure for Canadian artists and help them to grow their careers, both here at home and then—through our direct financing or funding to agencies like Factor and starmaker fund —we give them access to monies that they would otherwise not have to be able to tour and make their records and manage their careers in a way that doesn't require them to have other outside distractions.

Mr. Terry Sheehan: That's helpful.

Help me understand this. What I'm having a bit of a problem with is that we have this chart that shows that Canadian labels are getting 2% and Canadian performers are getting 28%. It's showing that 70% of non-Canadians are getting a benefit under the current system, but you're saying don't change it. We're still only getting 30%, and you're saying it's going to be worse if we change it.

Ms. Nathalie Dorval: Oh no, actually, we're not saying "don't change this". We're saying that maybe there's something that you should look into with that part of the issue. Even if you were changing the $100 on the first $1.25 million and making it more, it would end up there and that would flow out of the country.

Mr. Terry Sheehan: How would we change it to improve that particular piece of evidence?

Ms. Susan Wheeler: You can't change it, because that is something that is contractually arrived at between the artist and their label. I think that's where you heard Bryan Adams earlier in this hearing—

Mr. Terry Sheehan: He didn't testify here. He testified over there....

Ms. Susan Wheeler: Oh yes, you're right. My apologies.

He talked about the contractual challenges that certain artists have when they're starting out. They don't have the contracting power to be able to arrange for things in a way that's as balanced as it might be now, once he has become Bryan Adams....

There was a very useful article recently about Spotify changing its business model, and it really reinforces the message we're trying to convey here. It talks about a traditional label deal. They have a pie chart that shows 41.6% going to the label, 48% going to Spotify and 10% going to the artist.

These are contractual arrangements that the labels have entered into with Canadian artists. It's not something that can be undone through a legislative regime. It's really something that is a business affair of theirs.

All we're saying is that under the copyright regime, if you change the amount that radio is paying out, the net beneficiaries, really, are the multinational record labels in the end. Yes, artists will get a bit more money, but the lion's share of that money will go out of Canada, at the expense of local broadcasters.

● (1635)

The Chair: Thank you.

We're going to move on to you, Mr. Chong. You have five minutes.

Hon. Michael Chong (Wellington—Halton Hills, CPC): Thank you to our witnesses for appearing.

I want to focus on radio and in particular on for-profit radio. I don't really want to focus on the not-for-profit community radio stations at this point.

In looking at the research that our analysts have pulled together, it's clear that your revenues are under pressure, both in radio and in television, but the operating margins seem to be holding fairly constant although there is a slight decrease in the operating margin for radio.

A pretty big landmark study by the C.D. Howe Institute about three years ago concluded that the value of the royalties that artists and multinationals and domestic rights holders should be getting is about two and a half times what actually is being paid out. The study concluded that for the year they analyzed, which was 2012, about $178 million was paid out in royalty revenues, but the actual value of the playing of these songs on radio was actually closer to $440 million. It concluded that there has to be a new way of looking at how these royalties are structured.

The author of the report, who is a professor emeritus of economics at the Université de Montréal, concluded that the amount of royalty revenues is not fair. I wonder if you could comment on that study or on the principle behind the study.

Ms. Nathalie Dorval: I have no direct knowledge of that study. I would say that we feel that the Copyright Act as it is today achieves the right balance. It is very easy to upset that balance. Obviously, you will probably always have one side that says they don't get enough and the other side that says they give enough. What's the right answer to that? We believe that the current act really achieves that. It was difficult to get there.

I think what we're saying is that you'll probably find one study that says something and another study that's going to say something else. I think we need to be really careful, because by pulling one thing on one side, we're affecting a whole ecosystem in the copyright regime that we have, and this might be very disruptive.

Hon. Michael Chong: This was a pretty rigorous analysis, I think. It was done by an economics professor. He analyzed the amount of talk time on a radio station and the amount of music time. He took the last minute of each to analyze what actually would be the commercial value of talk versus music on a radio. Using standard methodology, he came up with the conclusion that the value of recorded music on private sector radio stations in Canada in 2012 was closer to $440 million of market value, but the royalties paid out were only $178 million.

It seems to me that this is something the committee has to look at. That's why I'm asking the question.

Ms. Susan Wheeler: I won't purport to be an economist, but all of the radio tariffs are set by the Copyright Board. They're an economic tribunal, so that is their expertise. In terms of the tariffs the economist in question is looking at, if the standard methodology they're using is clearly not the standard methodology the Copyright Board is using, then perhaps that is where there may be some information missing and why they would arrive at two different quantums. The sole purpose and work of the Copyright Board is to arrive at the right rate for the input of music use.

● (1640)

Hon. Michael Chong: The author of this report is Marcel Boyer, professor emeritus. He wrote about this in The Globe and Mail at that time as well. He was quite critical of how the Copyright Board came up with its determination of what the royalties should be set at. His belief is that the Copyright Board needs to be restructured in order to ensure that artists are getting market value for the playing of their songs on for-profit commercial radio.

At any rate, I raise the point because I think it's relevant to the study we're having here. C.D. Howe is a pretty big organization. Usually its research is looked at by committees and people across the country.

I know there are two sides to every story. That's why I'm asking the question.

Ms. Susan Wheeler: I can attest, having witnessed a number of Copyright Board proceedings, that there are volumes of economic analysis and data filed for each tariff proceeding, using real data in terms of the music that's played on radio and looking at the segments as well. It is a very thorough process and something that I guess would be done in that context as opposed to a legislative review.

Hon. Michael Chong: I have one last quick question on what he recommended. He recommended that there be two types of royalty rates, one for terrestrial radio, or traditional radio, and another for Internet radio. These two technologies are very different. The costs of entry are quite different for commercial terrestrial radio. It's quite high to enter the marketplace, whereas anybody can set up an Internet radio station. He argued that because of that, royalty rates for terrestrial radio should be based on a percentage of revenues, and for Internet radio the royalty regime should be set on a per-play measure.

I want to get your thoughts on that kind of two-tiered system.

Ms. Susan Wheeler: We don't represent any streaming or Internet radio broadcasters.

My colleague from Stingray may want to comment.

Ms. Annie Francoeur: Well, we need to keep in mind that Stingray is a little bit different from other services. Most of our services are distributed through third parties such as the BDUs, so it's a little bit different in our case. Most of the streaming we do is made by subscribers to the TV service who are authenticated as Internet users through their mobile app or the web player.

So the situation is a little bit different. We do receive revenue from the BDUs for the TV service and apply it to the other platforms as well. The model developed by Mr. Boyer wouldn't necessarily apply to our case.

The Chair: Thank you very much.

Ms. Caesar-Chavannes, you have five minutes.

Mrs. Celina Caesar-Chavannes (Whitby, Lib.): Thank you to the witnesses.

To Stingray, can you explain a little bit more about it? Is it similar to a Spotify-type platform?

Ms. Annie Francoeur: Not at all.

Mrs. Celina Caesar-Chavannes: Okay.

Ms. Annie Francoeur: Spotify is an on-demand service. Contrary to Spotify, Stingray tries to stay away from on-demand audio, on-demand service. We prefer to use the benefit of the statutory licence, whether it's in Canada or in the U.S. or in most jurisdictions where we distribute the service. The service is audio linear playlist with limited semi-interactive functionalities, depending on the market, depending on the statutory licences. But you cannot select the song that you want to listen to. It's not a Spotify, no.

Mrs. Celina Caesar-Chavannes: It's not a streaming service at all.

Ms. Annie Francoeur: We are streaming, but it's not an on-demand streaming service like Spotify.

Mrs. Celina Caesar-Chavannes: Okay.

You indicated that you'd like the Copyright Act to be left alone. Can you explain briefly your major impetus for wanting that to stay as is?

Ms. Annie Francoeur: We believe that copyright, as it is now, works. We understand that the artists are complaining. We do believe that there are solutions that need to be put in place, but we don't believe that those solutions mean reviewing the Copyright Act.

Part of the solution is that—and this is something I will address tomorrow with the other committee—we believe that some of the use of music should be brought under the Broadcasting Act and should be regulated. For example, if you play a radio in your retail outlet, the radio station is subject to the minimum Canadian content requirement, the 35% that my colleague was explaining earlier.

If you use the services of a commercial background music supplier.... Stingray is one of the biggest music suppliers to commercial outlets in Canada. We're not subject to any Canadian content requirement. We can play whatever we want. We made a submission in front of the CRTC last February. We proposed that commercial background music suppliers be subject to the same Canadian content minimum requirement, so that if you use the Stingray service in a commercial outlet, you will be hearing the same type of Canadian content as if you play radio or if you listen to your TV channel in your home, because TV channels are also subject to the same Canadian requirements.

That's one example of our saying this is where we need to make sure that royalties are going to Canadian artists and that we hear Canadian artists, but not review the Copyright Act.

● (1645)

Mrs. Celina Caesar-Chavannes: Does the NCRA or the CAB agree or disagree with Madame Francoeur, and what is your major impetus for your agreement or your disagreement with her analysis?

Ms. Nathalie Dorval: Do you mean with this last proposal?

Mrs. Celina Caesar-Chavannes: Yes.

Ms. Nathalie Dorval: I think we never had a chance to discuss it. This is new to us, but we think measures that would help Canadian artists are good. If regulation were to be put on background music suppliers to increase Canadian content, I don't think we would be opposed to that. I think we would support that measure.

Mrs. Celina Caesar-Chavannes: NCRA, do you have any comment?

Ms. Freya Zaltz: We generally stay away from commenting on how other broadcasters and broadcasters in other sectors should be regulated and what they should be required or not required to pay, because it's outside our area of expertise and, in particular, because we operate on a not-for-profit basis. I'm sitting here as a volunteer. I have a day job that is not doing what I'm talking about right now. So my scope of knowledge is somewhat limited, and I do have to focus just on what I can say about our sector and not about the others. To some extent, our mandates overlap and we can talk a little about what we share and what we do that may affect each other in positive or negative ways; but in terms of a proposal, I would rather not comment at this stage.

Mrs. Celina Caesar-Chavannes: That's okay. Thank you.

The reason I asked this question is that we have different organizations sitting here, and it seems that, at the end of the day, all of you would like to see musicians get their fair share, for lack of a better term. But that goes with—if I'm hearing correctly—not making too many substantial changes to the act because, as you mentioned, Madame Dorval, if you pull on one side, the other side... There is an ecosystem. What then are the changes that are required, if any, to ensure that our musicians get their fair share?

Ms. Nathalie Dorval: As I said, maybe we have to look at it from a different viewpoint.

I said that Bryan Adams was before this committee, and he proposed something that is very different, something outside the box. That could probably be achieved through legislative changes or something different that has been proposed by the record labels, for example.

Mrs. Celina Caesar-Chavannes: Thank you.

The Chair: We're going to go to Mr. Masse. You have your two minutes.

Mr. Brian Masse: Thank you, Mr. Chair.

I'm trying to get some timelines that we are crunching here. There's a good chance that by the time this committee gets a report done, and has handed it to the minister, and the minister gets the report back to Parliament....If the government actually wanted to introduce legislation, it could take some time. It may not happen before the next general election. My concern is that we have nothing.

Maybe starting with you Ms. Wheeler, and then finishing with our friends from Vancouver, what would be the top priority for things to be done, if you had one or two, really quickly? Or status quo, if that's what it is, because the parliamentary session is winding down.

● (1650)

Ms. Susan Wheeler: Yes, status quo would be our top priority, in terms of ensuring some predictability and stability for the local broadcast sector, which is undergoing a lot of change and challenges these days.

Ms. Annie Francoeur: Same thing, status quo, in terms of the Copyright Act. We do believe that additional changes need to be made, but they would be outside the Copyright Act review.

Ms. Freya Zaltz: I would say the same thing. With respect to the one section that I spoke about, obviously the sector would prefer to see that not change. I am unable to speak about other aspects of the act.

Mr. Brian Masse: Thank you, Mr. Chair.

The Chair: We're at the end of our first round. We have some committee business to do at the end. We have time for about five minutes on each side.

Mr. Longfield.

Mr. Lloyd Longfield: Thanks. I'll share my time with Mr. Lametti.

My frustration, I guess that's the word, is trying to find an equitable balance, where the creators of music can be paid for their creations and not be in poverty. They're either in poverty, or very successful; there seems to be no in-between.

It's frustrating to try to find the right suggestions, particularly where there are revenue streams that are outside....Possibly, the frustration today is that the revenue streams aren't in this room.

Could you comment on what we are missing, in terms of balance?

Ms. Dorval, do you have anything? I think radios are playing a key role, as you said, in local news and other services, advertising local businesses and keeping local economies going.

Ms. Nathalie Dorval: We really are big supporters of culture and Canadian artists. We are promoting them, paying royalties, contributing in content development every year. We are true supporters of Canadian artists.

It's a bit frustrating for us, too. As my colleague was saying, it's more of a contractual relationship. Artists who are at their debut are not going to have the bargaining power to possibly make a good deal with a record label. That's where it seems to be—

Mr. Lloyd Longfield: Stuck.

Ms. Nathalie Dorval: Yes.

I don't really have an answer for you as to how we undo this thing.

Mr. Lloyd Longfield: Thank you.

Mr. Lametti, over to you.

[*Translation*]

Mr. David Lametti (LaSalle—Émard—Verdun, Lib.): Thank you, everyone.

You have just described an ecosystem that has been more or less balanced since 1997 and to which you are able to adapt.

Are you concerned about the Supreme Court of Canada's decision in Canadian Broadcasting Corp. v. SODRAC 2003 Inc.?

[*English*]

Is this in the pipeline, is it something that you're worried about? It will have more of an impact on television, but is it something that might upset this ecosystem that you have described?

Ms. Susan Wheeler: It was our understanding that's the decision dealing with the definition of sound recording.

Mr. David Lametti: The Copyright Board is dealing with the tariff and it's actually moving through the legal process.

Ms. Nathalie Dorval: That's a tariff that has been filed before the Copyright Board for reproduction works for SODRAC. It did go to the Supreme Court and we will respect that. They decided that was the way that the act had to be interpreted, so there's going to be an additional tariff to be paid by broadcasters on reproductions that are made mostly in the francophone market.

It is what it is. We are part of an ecosystem. If that's what has been decided, we're going to go with it.

● (1655)

Mr. David Lametti: Okay.

Ms. Zaltz, do you have thoughts on that? You were the one who referred to SODRAC in an answer to one of your questions.

Ms. Freya Zaltz: I'm not familiar with that particular decision or the impact that it would have on our sector. I'm not sure that it does have a significant impact. I would have to answer that question in writing.

Mr. David Lametti: Thank you.

The Chair: Mr. Lloyd, you have five minutes.

Mr. Dane Lloyd: I'll split my time with my colleague here.

I wanted to pick up on something when we had ended off with the community radio stations. Ms. Wheeler or Ms. Dorval, you might have more insight related to the two final tariffs that were listed that are paid. This would be the one to CMRRA and the SODRAC ones.

Could you describe what those tariffs are for, as exactly as you can? What are the purpose of those tariffs?

Ms. Nathalie Dorval: CMRRA-SODRAC are tariffs that are paid for the reproduction of musical work when they are used on radio stations.

Ms. Annie Francoeur: It goes to publishers, writers and composers who are the members of CMRRA-SODRAC.

Mr. Dane Lloyd: CMRRA is to what, specifically?

Ms. Susan Wheeler: English.

Mr. Dane Lloyd: Then SODRAC is for the francophone side.

How is that distinguished from the first tariff—for example, the performing rights or the Re:Sound rights? What's the distinction between those two things?

Ms. Susan Wheeler: SOCAN is for the communication to the public by the composers and lyricists. Re:Sound is for the neighbouring rights—the performer and the owner of the sound recording, so the performer and the label. That's why it's split fifty-fifty. Then the CMRRA-SODRAC is the reproduction rights. That's when we take music from a digital service provider that is enabled by the labels and we download it to our hard drive. That triggers that reproduction right before we broadcast it for air.

Mr. Dane Lloyd: Thinking kind of big sky, policy-wise, is it necessary to have so many different tariff bodies? Is there some way it could be simpler? Could it be amalgamated and then provide the same benefits to the stakeholders? Would that help your business model?

Ms. Susan Wheeler: Certainly it would help with the streamlining of our copyright liability. Right now, we have to defend ourselves or object to five different tariffs on a regular basis, sometimes without knowing what the rate is because of the length of the Copyright Board decisions. That certainly is an administrative challenge for us.

However, in fairness, they are separate rights recognized under the legislation. I have asked that question to our copyright council in the past. I've been told that to try to consolidate or unwind it would actually pull the strings that have been referenced earlier on in this committee appearance, and unravel certain fabric that has been woven together under this legislation.

Mr. Dane Lloyd: Thank you.

I'll pass it on to my colleague here.

Ms. Annie Francoeur: If I may answer your question also.

Stingray does business outside of Canada and we've seen in many countries where some of the collectives have merged and represent both performance rights or communication rights and reproduction rights. It does help with the efficiency.

I can also tell you that it helps in terms of piracy. If it's easier to license a product, then there are fewer chances that you will have a lot of people going around and thinking that they are fully licensed. Not all people operate an illegal service knowingly. Some of them got a licence from SOCAN and from SODRAC and they think they are good to go but no, they're missing Connect or they're missing CMRRA. If everything were merged, or at least most of them were merged, it would make it easier for people.

Ms. Susan Wheeler: I think there's a distinction between the administration of the right and the actual right in the legislation.

Mr. Dan Albas: I would like to go back to the royalty exemption again. Once a station hits that $1.25 million, how does the process change in terms of paying the tariff?

Ms. Susan Wheeler: We pay $100 on the first $1.25 million and then the Copyright Board sets a tariff for the revenue threshold over and above that amount.

● (1700)

Mr. Dan Albas: How many stations are over that cap?

Ms. Susan Wheeler: We estimate that about 40% of our membership would be over that cap.

Mr. Dan Albas: Okay, and roughly how much would they then be paying versus the other 60%?

Ms. Susan Wheeler: On that particular tariff?

Mr. Dan Albas: Yes.

Ms. Susan Wheeler: I do not think we've broken that down. The tariff in itself generates $18 million. If you wanted to do the rough math that way, I'm not sure it would be accurate. We could look and try to provide that information for you. It is private because we're all competitors at the end of the day as part of an association.

Mr. Dan Albas: Sure. Even if that information were to be aggregated...I don't want Ms. Zaltz being the only person who has homework.

The Chair: Thank you very much for these very good questions. The whole point of this is to push a little back so that we get information that we can then put in our report and try to have a better understanding and come up with some good actionable recommendations.

Earlier, Ms. Wheeler, you propped up a chart. Could you submit that? We're not sure what that was. We don't have that.

Ms. Susan Wheeler: We had one chart on radio and the actual neighbouring rights. I was referring to a recent article about Spotify changing its business model to benefit artists more directly by taking out the label relationship. I can certainly provide you with the reference to that.

The Chair: The one with the two graphs on it?

Ms. Susan Wheeler: Yes.

The Chair: Yes that's the one. If you can forward that it would be good for us.

Ms. Susan Wheeler: Absolutely. My pleasure.

The Chair: On that note, I want to thank our witnesses for coming today all the way from British Columbia. Hopefully it's sunny over there today.

We're going to suspend for a couple of minutes then we're going to come back in camera to finish off our business.

[*Proceedings continue in camera*]

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